

RESPONSE TO OFFICE ACTION
U.S. Serial No.: 10/755,701
Page 12

REMARKS

I. Preliminary Remarks

This Amendment and Response cancels claims 1-100 without prejudice and adds new claims 101-131, the subject matter of which is fully supported by the specification. Claims 101-131 are proper under the election of species previously filed on May 30, 2006, where Applicants elected to prosecute the invention of containment figure 1 (D-shaped web) and design C (three-component).

II. 35 U.S.C. § 102 Rejections

A. Buchholz

The Action rejects claims 1-3, 5-12, 14-23, 25-29 and 44-50 under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 4,279,041 to Buchholz. Claims 1-3, 5-12, 14-23, 25-29 and 44-50 have been cancelled without prejudice, thereby rendering moot the Action's rejections of these claims. Additionally, now pending claims 101-131 are not properly subject to a similar rejection under 35 U.S.C. §102 because each and every element as set forth in the new claims is not disclosed, either expressly or inherently, by Buchholz. MPEP §2131.

Buchholz discloses an endoprosthesis in which a prosthesis head 1 is inserted into a socket 3 in a first orientation and then rotated into a second orientation defined as the "main direction of movement of the bone." Col. 4, lines 6-10. Corners 17 "lock" the head 1 into the socket 3 when the prosthesis is placed in the second orientation. Once locked, movement of the prosthesis is restricted by the corners to the "major direction of

RESPONSE TO OFFICE ACTION
U.S. Serial No.: 10/755,701
Page 13

movement.” Col. 3, lines 52-61. Thus, although Buchholz may disclose a prosthesis that should not dislodge when the head is oriented in the “major direction” of movement, a recipient of such a prosthesis could still experience displacement should it move the prosthesis into another position, such as the position of the first orientation.

In contrast to Buchholz, claims 101-129 disclose a containment system of the present invention that includes an implant stem head which can articulate within an implant structural member but cannot be removed from the implant stem head once it is attached to a femoral stem no matter what position is taken by the recipient. These claims disclose a containment system with an implant stem head and a separate femoral stem component. Because the implant stem head and the femoral stem are separate components, the implant stem head can be inserted into the implant structural member in a first orientation and then rotated to a position in which the head cannot be removed from the implant structural member before attachment of the femoral stem. Once attached, the femoral stem “locks” the implant stem head, thereby permitting a full range of motion but rendering it impossible for the head to take the first orientation which could result in dislodgement of the implant. Unlike the prosthesis disclosed by Buchholz, once assembled, the implant stem head of claims 101-129 cannot be removed from the implant structural member no matter what position is taken by the recipient.

Buchholz fails to disclose a containment system in which an implant head can articulate within an implant member but cannot be removed from the implant member once it is attached to a femoral stem. As Buchholz does not teach or suggest a prosthesis system

RESPONSE TO OFFICE ACTION**U.S. Serial No.: 10/755,701****Page 14**

containing each and every element of claims 101-129, Applicants respectfully submit that independent claims 101 and 117, as well as claims 102-116 and 118-129 which depend therefrom, are not anticipated nor made obvious by Buchholz.

Additionally, new claims 130-131 disclose a prosthesis system with a web having a D-shaped opening and an implant stem head which includes a substantially planar surface that corresponds to the shape of the web. Buchholz also does not teach or suggest a prosthesis system using a D-shaped opening and corresponding implant stem head. As Buchholz does not teach or suggest a prosthesis system containing each and every element of claims 130-131, Applicants respectfully submit that independent claims 130 and 131 are not anticipated nor made obvious by Buchholz and Applicants respectfully request allowance thereof.

III. 35 U.S.C. § 103**A. Chambers**

The Action rejects claims 1-3, 5-12, 14-23, 25-34, 36-50, 80-84 and 86-93 under 35 U.S.C. § 103 as being unpatentable over applicant's specification in view of U.S. Patent No. 3,656,184 to Chambers. Claims 1-3, 5-12, 14-23, 25-34, 36-50, 80-84 and 86-93 have been cancelled without prejudice, thereby rendering moot the Action's rejections of these claims. Additionally, now pending claims 101-131 are not properly subject to a similar rejection under 35 U.S.C. § 103 because each and every element as set forth in the claims is not disclosed, alone or in combination, by Chambers or the applicant's specification.

MPEP §2142.

RESPONSE TO OFFICE ACTION**U.S. Serial No.: 10/755,701****Page 15**

The Action states that Chambers teaches a prosthesis which includes a web which extends around only a portion of the lip of the structural member and that it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the ball and structural member taught by Chambers so that the "ball member is shaped to pass through the socket opening at one particular orientation for fitting the parts together, but once in place and orientated in normal positions of use the ball member cannot be removed from the socket."

Chambers discloses a prosthesis in which the ball member is shaped so that it can be placed into or removed from the socket in only one position. The socket member of Chambers includes an oval opening, either elliptical or framed by two circular arcs having off-set centers. Chambers, Col. 2, lines 40-42. The ball member of Chambers is generally spherical and includes a diameter that is smaller than the minor diameter of the opening in the socket. Col. 2, lines 68-73. After the ball has been inserted into the socket, the ball member is rotated to an operative position, at which dislocation is prevented by interference between retaining means and the spherical surface of the ball. Col. 3, lines 15-20.

As discussed above, new claims 101-129 disclose a containment system in which an implant stem head can articulate within an implant member but cannot be removed from the implant member once it is attached to a femoral stem. Although the prosthesis disclosed by Chambers may not be able to be displaced when a recipient takes "normal positions" of use, unlike the present invention, the recipient is still able to assume positions in which dislodgement could occur. As neither Chambers nor the applicant's specification, alone or

RESPONSE TO OFFICE ACTION

U.S. Serial No.: 10/755,701

Page 16

in combination, teach or suggest this feature as required by claims 101-129, they cannot render obvious claims 101-129.

As also discussed above, new claims 130-131 disclose a prosthesis system with a web having a D-shaped opening and an implant stem head which includes a substantially planar surface that corresponds to the shape of the web. The D-shaped opening reduces the size of the opening thus allowing the implant stem head to be inserted in the implant structural member in one orientation and constrained within the implant structural member in a second orientation. Unlike the oval opening of Chambers, the D-shaped web of the present invention comprises a smaller portion of the opening, thus allowing the femoral component to travel through a larger range of motion. As neither Chambers nor the applicant's specification, alone or in combination, teach or suggest a prosthesis system using a D-shaped opening and corresponding implant stem head, as required by claims 130-131, they cannot render obvious these claims. Thus, Applicants respectfully request allowance thereof.

B. Schryver

The Action rejects claims 1-3, 5-12, 14-23, 25-34, 36-50, 80-84 and 86-93 under 35 U.S.C. § 103 as being unpatentable over applicant's specification in view of U.S. Patent No. 5,226,917 to Schryver. Claims 1-3, 5-12, 14-23, 25-34, 36-50, 80-84 and 86-93 have been cancelled without prejudice, thereby rendering moot the Action's rejections of these claims. Additionally, now pending claims 101-131 are not properly subject to a similar rejection under 35 U.S.C. §103 because each and every element as set forth in the claims is

RESPONSE TO OFFICE ACTION
U.S. Serial No.: 10/755,701
Page 17

not disclosed, alone or in combination, by Schryver or the applicant's specification. MPEP §2142.

Like the Chambers rejection, the Action states that Schryver teaches a prosthesis which includes a web which extends around only a portion of the lip of the structural member and that it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the ball and structural member taught by Schryver so that the "ball member is shaped to pass through the socket opening at one particular orientation for fitting the parts together, but once in place and orientated in normal positions of use the ball member cannot be removed from the socket."

Applicants respectfully do not agree that the extension of element 15 of Schryver would inherently lock the ball of the prosthesis as claimed by the Action. Nonetheless, even assuming element 15 could lock the ball, it would only do so when the recipient of the prosthesis assumed certain positions. Like the device of Chambers, the recipient of a Schryver device is still able to assume positions in which dislodgement could occur. Thus, it does not disclose an implant which cannot dislodge no matter what position is taken by the recipient. As neither Schryver nor the applicant's specification, alone or in combination, teach or suggest a containment system in which an implant stem head can articulate within an implant member but cannot be removed from the implant member once the system is assembled as required by claims 101-129, they cannot render obvious claims 101-129.


RESPONSE TO OFFICE ACTION**U.S. Serial No.: 10/755,701****Page 18**

Further, new claims 130 and 131 disclose a prosthesis system with a web having a D-shaped opening and an implant stem head which includes a substantially planar surface that corresponds to the shape of the web. As neither Schryver nor the applicant's specification, alone or in combination, teach or suggest such a system, they cannot render obvious these claims. Thus, Applicants respectfully request allowance thereof.

RESPONSE TO OFFICE ACTION**U.S. Serial No.: 10/755,701****Page 19****CONCLUSION**

Applicants hereby petition that the period for responding to the Examiner's Action mailed on June 22, 2006 be extended for two months, up to and including November 22, 2006. Applicants' Assignee believes that no additional fees are believed due; however, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account 11-0855.

Respectfully submitted,



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